

**BEFORE THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

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**IN THE MATTER**

of an Appeal pursuant to section  
121 of the Resource Management  
Act 1991 ("the Act")

**BETWEEN**

**OTAGO RACING CLUB  
INCORPORATED**

**Appellant**

**AND**

**DUNEDIN CITY COUNCIL**

**Respondent**

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**NOTICE TO ENVIRONMENT COURT OF APPEAL ON DECISION ON  
APPLICATION CONCERNING RESOURCE CONSENT UNDER  
SECTION 121 OF THE RESOURCE MANAGEMENT ACT 1991**

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**TO:** The Registrar  
Environment Court  
Christchurch

1. The **Otago Racing Club Incorporated** ("ORC") appeals a decision on the following matter:

An application for subdivision and land use consents to subdivide land at 285 Gladstone Road North, Mosgiel into eleven residential lots plus a balance lot for residential activities on undersized rural zone lots.

2. The ORC is the applicant.
3. The ORC received notice of the decision on 29 October 2014.
4. The decision was made by the Dunedin City Council ("DCC").
5. The decision the ORC is appealing is:

The DCC's decision declining both the subdivision and land use consent application.

6. The land affected is:

285 Gladstone Road North, Mosgiel being Part Section 1-2, 4 Block 1 East Taieri Survey District and Part Lot 1 Deeds Plan 356 and Lot 2 DP 468938 (CFR 630356).

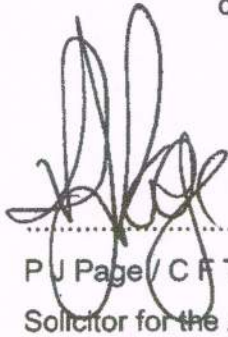
7. The reasons for the appeal are as follows:

(a) The proposal passes the section 104D 'gateway provisions' of the Act:

- (i) the proposal is not contrary to the objectives and policies of the Plan, in particular those objectives and policies concerning rural amenity and cumulative effect;
- (ii) the effects on rural amenity and the cumulative effects of the proposal are minor; and

- (iii) The decision provides an insufficient connection between findings of fact and how the application is contrary to the objectives and policies in the Plan or how the adverse effects of the proposal are more than minor.
  - (iv) The section 104D(1)(a) conclusion appears to have been made on the artificial assumption that the land was to remain 'undeveloped'.
- (b) The site is a 'true exception' in the Rural zone:
- (i) The site is not truly 'rural' given its use and history;
  - (ii) There are a number of lawfully established activities (consented and existing use rights) undertaken on site that are not permitted in the rural zone;
  - (iii) The proposed development is surrounded by the race course and the Residential 1 zoned Wingatui Township; and
  - (iv) Substantial positive effects can be achieved through providing secure public access to the ORC property by way of an easement in gross.
- (c) The Committee incorrectly determined what the 'environment' was and did not account for the 'future environment' in their analysis:
- (i) The current amenity (including visual outlook values) enjoyed by landowners located near the racecourse exists because the ORC has not undertaken certain permitted activities on their land;
  - (ii) The Committee incorrectly inferred that the ORC would not undertake permitted activities in the future due to the need to maintain good relationships with their neighbours; and
  - (iii) The incorrect determination of the 'environment' affects the entire decision.

- (d) The granting of consent would not result in an adverse precedent being set for further development given the proposed location.
  - (e) The proposal represents a more sensitive and appropriate interface between the residential environment and the racecourse than simple application of the zone rules.
  - (f) There is the potential for public benefit. An 'open space' public access easement in gross was proposed that goes further to protect the rural amenity values than the District Plan.
  - (g) Any reverse sensitivity issues are internal to the application site and are irrelevant.
  - (h) Any adverse effects on amenity values are capable of control to an appropriate level through conditions.
8. The ORC seeks the following relief:
- The subdivision and land use consents are granted.
9. The ORC attaches the following documents to this notice:
- (a) a copy of its application;
  - (b) a copy of the revised proposal;
  - (c) a copy of the relevant decision;
  - (d) a list of names and addresses of persons to be served with a copy of this notice.



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P J Page / C R Timbs  
Solicitor for the Appellant

18/11/2014  
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Date



Address for service

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### **Advice to Recipients of Copy of Notice**

#### *How to Become Party to Proceedings*

You may be a party to the appeal if you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

#### *How to Obtain Copies of Documents Relating to Appeal*

The copy of this notice served on you does not attach a copy of the relevant application or the relevant decision. These documents may be obtained, on request, from the appellant.

#### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.